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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,590	09/27/2001	Yung-Ming Chen	50623.00120	4003

7590

01/29/2003

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EXAMINER

EDWARDS, LAURA ESTELLE

ART UNIT

PAPER NUMBER

1734

DATE MAILED: 01/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/966,590

Applicant(s)

CHEN ET AL.

Examiner

Laura E. Edwards

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/17/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leidner et al (US 6,056,993) in view of Kawata et al (US 4,932,353) for reasons set forth in the previous office action.

With respect to the coating composition used, Leidner et al recognize the use of a polymer in a solvent with the addition of a therapeutic ingredient(s) (see col. 6, lines 54-57; col. 8, lines 7-9 and 64+).

Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leidner et al (US 6,056,993) in view of Blackinton (US 4,132,357) for reasons set forth in the previous office action.

With respect to the coating composition used, Leidner et al recognize the use of a polymer in a solvent with the addition of a therapeutic ingredient(s) (see col. 6, lines 54-57; col. 8, lines 7-9 and 64+).

Response to Arguments

Applicants' arguments filed 1/17/03 have been fully considered but they are not persuasive.

Applicants contend that the claimed invention is patentable over the prior art to Leidner et al in view of Kawata et al as well as Leidner et al in view of Blackington because the claimed invention yields unexpectedly improved properties or results over said prior art.

While Applicants' unexpected improved properties or results are acknowledged, such results are expected as Applicants have merely made more smooth and uniform the polymeric coating composition applied to the substrate via use of heat. Improved properties of the polymeric composition is confirmed by Leidner et al in col. 14, lines 30-32 whereby the coating is made more uniform and smooth via heating. The secondary references to Kawata as well as Blackington also confirm uniformity of thickness of the coating composition when it has been applied to the substrate via the use of heat (see Kawata et al- see col. 1, lines 47-54 and Blackington- see col. 2, lines 7-16). Therefore, Applicants' claimed invention with its unexpected improved properties or results is not deemed patentable over the cited prior art.

Applicants contend that the claimed invention solves long felt problems in the stent manufacturing art including clumping and pooling of the coating and lack of uniformity of the coating.

This argument is not deemed persuasive because Leidner et al have solved the problem of lack of uniformity of coating in stent manufacture. Leidner et al recognize heating the composition to provide [hot] melt dispensing during application and maintaining a controlled temperature environment about the stent manufacturing process to help make the coating more uniform and smooth (see col. 14, lines 30-45). The secondary references to Kawata et al and Blackinton reiterate improved uniformity in thickness of a coating composition when the coating composition is heated during application (see Kawata et al, col. 1, lines 47-54 and Blackinton

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col. 2, lines 7-16). Therefore, Applicants' solution to the long felt problems of clumping, pooling, and lack of uniformity does not overcome the teachings of the cited prior art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura E. Edwards whose telephone number is (703) 308-4252. The examiner can normally be reached on M-Th/First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7115 for regular communications and Same as above for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Laura E. Edwards
Primary Examiner
Art Unit 1734

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January 28, 2003